



STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:)	
)	
LINDA SPARKS,)	
)	
Complainant,)	
)	
and)	CHARGE NO: 1996SF0131
)	EEOC NO: 21B958100
OLD BEN COAL COMPANY,)	ALS NO: S-10917
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

On August 29, 1995 Complainant Linda S. Sparks filed a charge of discrimination against Respondent Old Ben Coal Company alleging she was sexually harassed by her supervisor and discriminated against because of her sex. On July 15, 1999 the Illinois Department of Human Rights filed a complaint on Complainant's behalf alleging Complainant was discriminated against in violation of section 2-102(A), 2-102(D) and 6-101(A) of the Illinois Human Rights Act. I conducted a public hearing in this matter on October 4 and October 5, 2000. Complainant Linda S. Sparks represented herself and attorney William A. Schmitt represented Respondent Old Ben Coal Company. The parties delivered oral closing arguments at the close of hearing in lieu of filing written briefs. Thus, this matter is ripe for decision.

Complainant's case

Complainant Linda S. Sparks testified on her own behalf and presented the testimony of two witnesses, Dick Goans and Barbara LaSala. The crux of Complainant's testimony focused on July 25, 1994 when she and her supervisor, William Larry Secrist, were descending a staircase in the coal mine's training facility. Complainant testified that during that moment, Mr. Secrist instructed her to stop walking down the stairs and turn around to look at him. Complainant did so and observed Mr. Secrist standing on the stair above her. She testified that

her eyes were at the same level as his groin when he exposed his penis to her and asked her to "give him a blow job" there on the staircase. According to Complainant she responded by turning back around and running down the staircase away from Mr. Secrist.

Complainant also testified that after the encounter on the staircase she complained to management with no avail. However, as a result of her complaints and her refusal to submit to Mr. Secrist, Complainant testified Mr. Secrist isolated her from other employees and forced her to work alone doing difficult tasks. Complainant's witnesses could not corroborate her testimony.

Respondent's case

Respondent Old Ben Coal Company presented the testimony of eight witnesses, including Complainant and Mr. Secrist, who were all employees of the mine in 1994 and 1995. During the hearing, Mr. Secrist denied he ever asked Complainant to give him a "blow job." Additional testimony demonstrated that Mr. Secrist always behaved in a strictly professional manner relative to his workplace environment, apart from some profane language that he used in Complainant's presence.

All of Respondent's witnesses, with exception of Complainant, reiterated that Mr. Secrist behaved in a professional manner toward Complainant. The witnesses testified that Complainant's colleagues at the mine were fearful of her because she filed numerous frivolous complaints and lawsuits against coworkers and others. Most of the witnesses testified that they never interacted with her without another coworker being present.

Findings of Fact

The following facts are those, after having considered all of the evidence in the record, I found were proved by a preponderance of the evidence. Assertions made in the record which are not addressed in this decision were determined to be unproven or immaterial to this determination:

1. Complainant, Linda S. Sparks, filed Charge No. 1996SF0131 with the Department of Human Rights on August 29, 1995, alleging to have been aggrieved by practices of sexual harassment and sex discrimination prohibited by section 2-102(A), 2-102(D) and 6-101(A) of the Illinois Human Rights Act.
2. On July 15, 1999, the Department of Human Rights filed a two count Complaint of Civil Rights Violation on behalf of Linda S. Sparks.
3. Respondent Old Ben Coal Company timely filed an Answer to the Complaint. As such, the parties are subject to the jurisdiction of the Illinois Human Rights Commission and this administrative law judge pursuant to the Human Rights Act, 775 ILCS 5/8-101 *et seq.*
4. During 1995 Respondent Old Ben Coal Company was an underground coal mine operating in central and southern Illinois
5. Complainant became employed by the coal mine in 1977. In 1995 Complainant bid on and received a position as gob truck driver at the mine. A gob truck driver is an above ground employee who works alone.
6. Complainant's job duties as a gob truck driver were to drive a loaded dump truck full of refuse (gob) from the central coal cleaning plant and dump it on top of a hill where the mine collected the gob to be properly disposed. Complaint's gob truck consisted of a single occupancy cab and the attached dumping apparatus.
7. During 1995, William Larry Secrist was Complainant's immediate supervisor.
8. On April 19, 1995, Complainant issued a written request to Mr. Secrist for copies of an accident report she claimed that he made in conjunction with an on the job knee injury that occurred in October or November 1994.
9. Mine personnel informed Complainant that Mr. Secrist did not file an accident report on Complainant's behalf in conjunction with her claimed on the job knee injury in October or November 1994.

10. Complainant then filed a grievance alleging a number of discriminatory acts taken against her. Management conducted meetings concerning her complainants. The meetings were conducted with Complainant and others on April 21, 24, 25 and 28, 1995. During the meetings, Complainant never complained to management about any type of sexual harassment by William Larry Secrist.

11. On May 11, 1995, Complainant met with mine management and accused Mr. Secrist of sexually harassing her on July 25, 1994. She told management that on that date, Mr. Secrist asked her for oral sex in a stairwell at the mine. The allegations were investigated and determined to be unfounded. No other claims of sexual harassment were made to management.

12. Complainant's coworkers requested not to work with her because they feared she would file complaints against them.

Conclusions of Law

1. The Illinois Human Rights Commission has jurisdiction over the parties and the subject matter in this case.

2. Complainant is an "employee" within the meaning of section 2-101(A)(1) Illinois Human Rights Act.

3. At the time of the alleged incidents, Respondent was an "employer" within the meaning of section 2-101(B)(1)(b) and was subject to the provisions of the Act.

4. Complainant failed to establish a prima facie case of sexual harassment in that complainant failed to prove by a preponderance of the evidence that Respondent engaged in conduct that was sexual in nature and had the purpose and effect of creating an intimidating, hostile or offensive work environment.

5. Complainant failed to establish a prima facie case of discrimination based on her sex in that complainant failed to prove by a preponderance of the evidence that Respondent subjected her to unequal terms and conditions of her employment and then retaliated against her for opposing such discrimination.

Determination

Complainant failed to establish a prima facie case of hostile work environment sexual harassment under section 2-102(D) of the Illinois Human Rights Act. Complainant also failed to establish a prima facie case of discrimination based on her sex and in retaliation for opposing such discrimination in violation of sections 2-102(A) and 6-101(A) of the Act.

Discussion

This case hinges on Complainant's credibility. I found Complainant's testimony at hearing to be unreliable. No one who testified on her behalf could substantiate her testimony or the allegations she made against her supervisor on the basis of sexual harassment or sex discrimination.

Respondent was successful at debunking all of Complainant's allegations. I found Larry Secrist to be a credible witness. Mr. Secrist's testimony demonstrated that Complainant's allegation of his request for oral sex was unbelievable. Evidence adduced at hearing showed that Mr. Secrist suffered from heart and lung disease that caused him great distress. He was away from work for a large portion of the time period in question because he experienced extreme difficulty breathing. Shortly after July 25, 1994 Mr. Secrist left work permanently because he needed a lung transplant. It is illogical to believe that Mr. Secrist would even descend a stairwell in that condition of health.

Despite Mr. Secrist's testimony, Complainant insisted that the request for oral sex did in fact take place in the stairwell on July 25, 1994. However, the credible evidence at hearing revealed that Complainant did not notify management of the alleged harassment until May 11, 1995. This was only after she was informed that Mr. Secrist did not fill out an accident report for a 1994 knee injury.

Next, Complainant alleged in her complaint that Mr. Secrist commented on her breasts. She presented no evidence of this fact at hearing. However, Respondent's witnesses testified

that Complainant herself talked about her breasts and invited her male coworkers to comment on them.

Finally, Complainant alleged she was forced to work alone at work in retaliation for opposing sexual harassment and because she was a woman in a male dominated workplace. While the fact that she worked alone may be true, it was not due to her gender or because she opposed sexual harassment. The credible evidence adduced at hearing proved that Complainant's job of driving a garbage truck by description was a one-person job. In fact, Complainant knew the job required her to work alone in a truck when she bid on and received the job.

Generally, Complainant demonstrated that she was easily provoked and appeared to be an opportunist. Respondent established at hearing that employees were apprehensive around Complainant because she filed complaints about them that proved to be unfounded. Nowhere was this better demonstrated than during the hearing when Respondent's counsel approached Complainant to question her about a document. As Respondent's counsel approached Complainant he moved close to her foot which was wrapped in a bandage. This action prompted a loud exclamation from Complainant followed by continuous, tearless sobbing. I asked Complainant what was wrong with her and she claimed Respondent hit her foot. When I informed Complainant that I did not observe Respondent hit her foot, she immediately regained her composure and we continued unremarkably with the hearing.

In observing Complainant's display at hearing, it is easy to imagine how this claim arose out of distorted facts. It is evident that Complainant was upset when she learned that Larry Secrist failed to place an accident report in her file referencing an on the job injury. The lack of this report precluded Complainant from seeking workers compensation benefits for her claimed injury. As a result, Complainant sought recourse against Mr. Secrist by filing false accusations of sexual harassment against him. Nothing was presented to convince me otherwise and the

credible evidence adduced at hearing in favor of Respondent was overwhelming. Accordingly, for all of these reasons, Complainant's case must fail.

Recommendation

Based on the above findings of fact and conclusions of law I recommend that the case of Linda Sparks and Old Ben Coal Company, together with the underlying charge number 1996SF0131, be dismissed with prejudice.

ILLINOIS HUMAN RIGHTS COMMISSION

KELLI L. GIDCUMB
Administrative Law Judge
Administrative Law Section

ENTERED THIS 18TH DAY OF DECEMBER, 2001.